CONFIDENTIAL

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File No. EJT3653

P. 1

E.R.S' Dep: No. 42 / 57

RR&R DEPARTMENT 1010

D BRANCH

Rev(CT) dt-28/2/57

Subject:— Application for posts outside the Rehabilitation organisation

Def 14/3

Def 14/3

Rev (CT)

Def 18/3/57

D-4

PS E

Karnatak

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Copies out from original file.

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Std. Sectt. Slip 24 B e.

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POLITICAL AND SERVICES DEPARTMENT.

The U.P.S.C. sometimes recommends candidates for appointment on trial when it considers that (i) none of the candidates applying for the post is quite suitable, (ii) the readvertisement of the post is not likely to yield better results and (iii) the candidate selected by it is likely to come up to the requisite standard after trial. Government used to accept such recommendations. The question whether in strict accordance or not the procedure involved was in order was not specifically examined. It seems that the Commission was making similar recommendations in respect also of appointments under the Bombay Municipal corporation. The Municipal Commissioner, Greater Bombay, however, objected to the procedure followed by the Commission in making recommendation for appointment of candidates on trial. The main objection was that the function of the Commission was to recommend candidates for appointment and it is for the competent Municipal authorities to decide whether or not the candidate recommended by the Commission should be continued. Since appointment on trial meant that the Commission was again to be consulted for continuing the candidate or otherwise after the trial period, it meant encroachment on the powers of the Municipal authorities.

The question raised by the Municipal Commissioner was specifically considered in relation to Government appointments also. The view held by Government was that appointment on trial was inconsistent with the provisions of recruitment rules which provided for appointment on probation or on an officiating basis and that appointment of a candidate on trial

to a post requiring appointment on probation militates against the definition of 'probation' and the rights of a probationer was conceded by the C.S.(C.C. & A.) Rules. The position was explained to the Commission and it was requested to discontinue the practice of recommending candidates for appointment on trial. The Commission does not consider that appointment of a candidate on trial is repugnant to the provisions of the recruitment rules or to the rights of a probationer. It has, however, no objection to discontinue the practice of recommending candidates for appointment on trial. Copies of the correspondence with the Commission are appended.

The question was re-examined in P.& S.D. on receipt of the Comm.'s reply. P.& S.D. is of the opinion that the position as set out in its letter to the Commission is correct. It is, therefore, proposed that the practice of recommending candidates for appointment on trial should be discontinued.

Discontinuance of the practice of recommending candidates for appointment on trial is likely to cause some inconvenience since the Commission will say that it cannot select candidates if candidates every way fit for the posts are not available. In that case Govt will some times find it difficult to make short term arrangements. One possible solution for this is to the commission to agree to allow Govt. to select its own candidate who can be appointed on trial to a temporary post created in lieu of the regular post. Govt can refer the case of such a candidate appointed on trial at the end of the trial period to the Comm.

and if the candidate is found suitable to continue him on probation by reviving the regular post. While there is no objection to this procedure from the point of view of Govt. it is unlikely that the Commn. will agree to such a procedure since it means that it should agree to the continuance of a person appointed by Govt

It is proposed to examine the whole question in a meeting of Secretaries before a decision is taken.

ED - K.P.N.C Adkarni) 19/1/54
Id/-M.D.D(hansali).
21/1.

No.PSC1253-D.
Political and Services Department.
Bombay Castle, 21st January 1954.

Forwarded with compliments to all Secretaries to Government.

2. This will be discussed at the next meeting of Secretaries.

By order and in the name of the Governor of Bombay,

Sd/-
Asstt. Secy. to the Govt. of Bombay,
Political and Services Department.

Rehabilitation Deptt.
'D' Branch.

Since the Secy. to Govt. RHD, is on leave, it is presumed that the C.S. himself will represent R.H.D.

Id/-
20/1/54.

This item has already been discussed by the Secretaries and they have decided that so far as government is concerned, the system of P.S.C recommending candidates on Trial may continue subject to certain conditions.

id/-
1/2/54.

hss.20/6

CONFIDENTIAL. COPY. LETTER

From - Secretary, Bombay.

To - The Secretary,
Bombay Public Service Commission,
Bombay.

No.PSC. 1253-D, Bombay Castle, 10th October,1953.

Subject:- Appointment of candidates on trial.

Upon representation made to them by the Municipal Commissioner of Bombay, the Government have reviewed the practice of appointing candidates on trial to services both under Government and the Bombay Municipal Corporation.

So far as Government service is concerned most of the recruitment rules contemplate the appointment of candidates on probation. There is no provision in any of the rules for appointment on trial. Appointment on trial therefore must be treated in effect to be an appointment on probation. Ordinarily, a period of two years is prescribed as the probationary period. Generally, it has been found that the Commission recommend candidates for appointment on trial for one year only. In view of the provisions of Explanation 2 below Rule 69 of the Bombay Civil Services(Conduct, Discipline and Appeal) Rules, it will not be correct to determine the suitability or otherwise of a candidate so appointed on trial before the expiry of the usual probationary period. Moreover, if at the end of the period of trial the occasion arises to terminate the services of the candidate on the ground of unsuitability, it would become necessary under the rules to communicate to him the reasons for the proposed termination and give him an opportunity to make his representation - vide Rule 55 of the Bombay Civil Services (Conduct, Discipline, and Appeal) Rules. In view of this difficulty it does not seem feasible to appoint candidates on trial.

In regard to appointments to the Municipal Services a further difficulty arises by reason of appointments on trial. The Municipal Corporation is not required to consult the Commission for discharging a candidate appointed on probation at the end of the probationary period. In recommending candidates for appointment on trial the Commission however contemplate that a further reference should be made to them at the end of the trial period. In effect, therefore, both for confirming the candidate and also for terminating his services consultation with the Commission thus becomes obligatory whereas under the established practice the Corporation itself is competent to take the decision in its own authority. That was the main substance of the representation made by the Municipal Commissioner and Government realize its force.

In these circumstances, Government consider that the practice of appointing candidates on trial both in Government service and under the Bombay Municipal Corporation is not in accordance with the prescribed recruitment rules and creates difficulties of competence in practice. Government, therefore, feel that the practice may be discontinued. Government is aware that this practice is followed by the Commission only in the cases where the alternative may be to make no recommendation at all. Even in such borderline cases there should be no objection to appointing a person on probation which may if necessary, be got curtailed by a suitable modifi-

ation of the rules. If, at the end of the period, the candidate is not found suitable it would be possible to terminate his services according to the rules.

I am, therefore, directed to request you to move the Commission to consider the question in the light of what has been stated above and to agree to the proposal of discontinuing the practice of recommending candidates for appointment on trial.

- Sd/- P.N.L.d

Chief Secretary to the Government of Bombay,
Political and Services Department.

=.=.=.=.=.=.=.=.=.=

C O P Y.

Confidential

No.015-
Bombay Public Service Commission,
Dept-of Indl. Building, Mahatma Gandhi Road,
Bombay No.1, 23rd November 1953.

From

The Secretary,
Bombay Public Service Commission.

To

The Chief Secretary to the Government of Bombay
Political and Services Department.

Sir,

With reference to your letter, No.P.S.C. 1253-D, dated the 10th October, 1953, regarding appointment of candidates on trial, I am directed to state that the Commission do not agree that it is not feasible in practice to make appointments on trial, as distinguished from appointments on probation. As a matter of fact, Government often make appointments ~~ad interim~~ even to clear and permanent vacancies in an officiating capacity pending further orders, and all that would be necessary, where a candidate is recommended for appointment on trial, would be to make an officiating appointment pending further orders. Such an appointment would not involve any injustice to the candidate concerned or any abridgement of his rights, since he would otherwise not be appointed at all and it would be open to him to refuse the appointment.

2. As the Commission had explained to the Municipal Commissioner for Greater Bombay, they have been recommending candidates for appointment on trial only when they are themselves not quite satisfied that the candidates are in every way suitable. In such cases their advice is not complete and it is sought to be completed by looking at the work of the candidate after a specified period. That is why the Commission consider it important that a special report should be sent to them; it is only after they have examined the candidate's performance in the light of the report that they can make their final recommendation. The provisions of the service rules regarding probationary may be terminated are not relevant since, as explained above, a candidate appointed on trial need not be given the status of a probationer at all.

3. If, inspite of the considerations set out above, Government and the Bombay Municipality are still of the opinion that recommendations for appointment on trial should not be made, the Commission have no objection to discontinue the practice of recommending candidates for appointment on trial.

Yours faithfully,
Sd/- B.J.Israel.
Secretary,
Bombay Public Service Commission.